

SECURING AIRCRAFT COCKPITS AGAINST LASERS
ACT OF 2005

OCTOBER 18, 2005.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 1400]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 1400) to amend title 18, United States Code, to provide pen-
alties for aiming laser pointers at airplanes, and for other pur-
poses, having considered the same, reports favorably thereon with
an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Securing Aircraft Cockpits Against Lasers Act of 2005”.

SEC. 2. PROHIBITION AGAINST AIMING A LASER POINTER AT AN AIRCRAFT.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

“§ 39. Aiming a laser pointer at an aircraft

“Whoever knowingly aims the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the United States, or at the flight path of such an aircraft, shall be fined under this title or imprisoned not more than 5 years, or both.”.

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

“39. Aiming a laser pointer at an aircraft.”.

PURPOSE AND SUMMARY

On March 17, 2005, Rep. Keller (R-FL) introduced H.R. 1400, the “Securing Aircraft Cockpits Against Lasers Act of 2005,” to address the growing problem of individuals intentionally aiming lasers at the cockpits of aircraft, particularly at the critical stages of take-off and landing. This practice constitutes a threat to aviation security and passenger safety. H.R. 1400 adds a section following 18 USC § 38 to impose criminal penalties upon any individual who knowingly aims a laser pointer at an aircraft within the special aircraft jurisdiction of the United States. The criminal penalties include fines of up to \$250,000 and imprisonment of up to five years.

BACKGROUND AND NEED FOR THE LEGISLATION

Over the past several years, the number of reports to the Federal Aviation Administration (FAA) detailing the aiming of lasers into airplane cockpits has dramatically increased. Since 1990, there have been over 400 of these incidents and more than 100 incidents have been reported since November 2004.¹ Between December 31, 2004 and January 11, 2005, a mere 12 days, the FAA reported the occurrence of 31 incidents of beaming a laser at an airplane cockpit.² FAA research has shown that laser illuminations can temporarily disorient or disable a pilot during critical stages of flight such as landing or take-off, and in some cases, may cause permanent physical injury to the pilot.³ In fact, a laser aimed into an airplane flying over Salt Lake City last year injured the eye of one of the plane’s pilots.⁴ This type of interference, whether an intentional effort to sabotage a plane or a prank should not be tolerated because of the potential for catastrophe. H.R. 1400 responds to this threat by enhancing criminal penalties for those who aim lasers at aircraft. The legislation defers to the definition of aircraft under 18 USC § 31(a)(1).

On March 15, 2005, The Subcommittee on Aviation of the Committee on Transportation and Infrastructure held a hearing enti-

¹Statement of Nicholas A. Sabatini, Associate Administrator for Aviation Safety, Federal Aviation Administration, Before the Subcommittee on Aviation, Committee on Transportation and Infrastructure, U.S. House of Representatives, on Recent Laser Incidents and the Potential Impact on Aviation Safety. March 15, 2005.

²Julie Bisbee, “Transportation Secretary steps up efforts to combat lasers being beamed at planes,” *Associated Press*, January 13, 2005.

³Van B. Nakagawara and Ronald W. Montgomery, “Laser Pointers: Their Potential Affects on Vision and Aviation Safety,” DOT/FAA/AM-01/7, April 2001.

⁴Bill Gertz, “Laser Injures Delta Pilot’s Eye,” *The Washington Times*, September 29, 2004.

titled: “Lasers: A Hazard to Aviation Safety and Security?” The Subcommittee on Aviation heard testimony from: Mr. Perry Winder, First Officer, Delta Airlines; Mr. Nicholas Sabatini, Associate Administrator for Aviation Safety, FAA; Mr. Randall Walden, Technical Director, U.S. Air Force Rapid Capabilities Office; and Captain Terry McVenes, Executive Air Safety Chairman, Air Line Pilots Association. The witnesses expressed FAA and pilot concerns that the growing number of laser incidents poses a threat to aviation safety. Mr. Sabatini testified that as of January 19, 2005, all pilots have been required to report any laser sightings to air traffic control, who are then required to notify appropriate law enforcement entities for investigation.⁵ Captain McVenes recommended a commitment from law enforcement to fully investigate and prosecute those who intentionally illuminate aircraft cockpits with lasers.⁶

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 1400, the “Securing Aircraft Cockpits Against Lasers Act of 2005.”

COMMITTEE CONSIDERATION

On September 29, 2005, the Committee on the Judiciary met in open session and ordered favorably reported the bill H.R. 1400 to the House with an amendment by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee consideration of H.R. 1400.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 1400, the following estimate and comparison prepared

⁵ Statement of Nicholas Sabatini, *Supra*.

⁶ Statement of Captain Terry McVenes, Executive Air Safety Chairman, Air Line Pilots Association, Before the Subcommittee on Aviation, Committee on Transportation and Infrastructure, U.S. House of Representatives, on Recent Laser Incidents and the Potential Impact on Aviation Safety. March 15, 2005.

by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 7, 2005.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1400, the Securing Aircraft Cockpits Against Lasers Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 1400—Securing Aircraft Cockpits Against Lasers Act of 2005.

CBO estimates that implementing H.R. 1400 would have no significant cost to the Federal Government. Enacting the bill could affect direct spending and revenues, but CBO estimates that any such effects would not be significant. H.R. 1400 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

H.R. 1400 would establish a new Federal crime for aiming the beam of a laser pointer at an aircraft or at the aircraft's flight path. Because the bill would establish a new offense, the government would be able to pursue cases that it otherwise would not be able to prosecute. We expect that H.R. 1400 would apply to a relatively small number of offenders, however, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 1400 could be subject to criminal fines, the Federal Government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 1400 is intended to deter and punish individuals who knowingly shine the beam of

a laser pointer at an aircraft by providing criminal penalties and fines.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in art. I, § 8, cl. 3 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following section-by-section analysis describes the bill as reported by the Committee on the Judiciary.

Sec. 1. Short title.

This section provides that the Act may be cited as “Securing Aircraft Cockpits Against Lasers Act of 2005.”

Sec. 2. Prohibition against aiming a laser pointer at an aircraft.

This section makes it a crime to knowingly aim the beam of a laser pointer at an aircraft and provides criminal penalties of fines and up to five years in prison.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

CHAPTER 2—AIRCRAFT AND MOTOR VEHICLES

Sec.

31. Definitions.

* * * * *

39. *Aiming a laser pointer at an aircraft.*

* * * * *

§ 39. *Aiming a laser pointer at an aircraft*

Whoever knowingly aims the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the United States, or at the flight path of such an aircraft, shall be fined under this title or imprisoned not more than 5 years, or both.

* * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

THURSDAY, SEPTEMBER 29, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in Room 2141, Rayburn House Office Building, the Honorable F. James Sensenbrenner, Jr., Chairman of the Committee, presiding.

Chairman SENSENBRENNER. The Committee will come to order.

[Intervening business.]

Chairman SENSENBRENNER. Finally, pursuant to notice, I now call up the bill H.R. 1400, the "Securing Aircraft Cockpits Against Lasers Act" for purposes of markup and move its favorable recommendation to the House. Without objection the bill will be considered as read, and open for amendment at any point.

The Chair recognizes the sponsor of the bill, for 5 minutes, briefly to explain it.

[The bill, H.R. 1400, follows:]

109TH CONGRESS
1ST SESSION

H. R. 1400

To amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mr. KELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing Aircraft
5 Cockpits Against Lasers Act of 2005”.

6 **SEC. 2. PROHIBITION AGAINST AIMING A LASER POINTER**
7 **AT AN AIRCRAFT.**

8 (a) OFFENSE.—Chapter 2 of title 18, United States
9 Code, is amended by adding at the end the following:

1 **“§ 39. Aiming a laser pointer at an aircraft**

2 “Whoever knowingly aims a laser pointer at an air-
3 craft in the special aircraft jurisdiction of the United
4 States, or at the flight path of such an aircraft, shall be
5 fined under this title or imprisoned not more than 5 years,
6 or both.”.

7 (b) AMENDMENT TO TABLE OF SECTIONS.—The
8 table of sections at the beginning of chapter 2 of title 18,
9 United States Code, is amended by adding at the end the
10 following new item:

“39. Aiming a laser pointer at an aircraft.”.



Mr. KELLER. Thank you, Mr. Chairman. Mr. Chairman, aiming a laser beam into the cockpit of an airplane is a clear and present danger to the safety of all those on board the aircraft.

This legislation is simple and straightforward. It makes it illegal to knowingly aim a laser pointer at an aircraft. Those who intentionally engage in such misconduct shall be fined or imprisoned not more than 5 years, or both, in the discretion of the judge.

A recent rash of incidents involving lasers aimed at aircraft cockpits have raised concerns by pilots and law enforcement officials over the potential threat to aviation safety and security.

The problem is more widespread than one might think. According to the Congressional Research Service and the Federal Aviation Administration, there have been over 400 incidents reported since 1990, where pilots have been disoriented or temporarily blinded by laser exposure. Unfortunately, there has been a dramatic increase in the number of these laser incidents recently. For example, in January the FBI reported that there had been 8 incidents over a 10-day period in Ohio, Texas, Oregon and New Jersey, where laser beams had been aimed at the cockpits of aircraft. These easily available pen-size laser pointers, like the one I purchased here for \$12 at the House of Representatives office supply store, have enough power to cause vision problems in pilots from a distance of two miles away. It is only a matter of time before one of these laser beam pranksters ends up killing over 200 people in a commercial airline crash.

On March 10, the captain of a major commercial airliner was struck by a green laser as his jet was about to land at the Dallas-Ft. Worth International Airport. He was temporarily blinded, disoriented and suffered blurred vision in one eye, which required the first officer to take over and land the aircraft for him.

I wanted to learn what it was like to be in a aircraft cockpit hit by a laser beam, so earlier this week, on Tuesday, September 27, I spoke with Lieutenant Barry Smith from my hometown of Orlando, Florida, who was actually in the cockpit of a helicopter that had been hit by a laser beam. Lieutenant Smith is with the Seminole County Sheriff's Office. He and his partner were in their police helicopter searching for burglary suspects at night in a suburb of Orlando, when a red laser beam hit the aircraft twice. Lieutenant Smith said the plexiglas windshield of the helicopter spread out the light to be the size of a basketball. It shocked them. They were flying near a large tower with a red light, and they mistakenly thought that they may have flown too close to the tower and were about to crash. They were disoriented, and they immediately jerked back the helicopter.

When they realized that they weren't actually near the tower, Lieutenant Smith began to worry that the light could have come from a laser sight on a rifle. He wondered if they were about to be shot out of the sky. He told me, quote, "It scared the heck out of us." In reality, it was just a 31-year-old man with a small pen size laser light standing in his back yard.

So far none of the more than 400 incidents involving flight crew exposure to lasers have been linked to terrorism. Rather, it's often a case of pranksters making stupid choices to put pilots and their passengers at risk of dying. It's imperative that we send a message

to the public that flight security is a serious issue. These acts of mischief will not be tolerated.

Currently a handful of State legislatures, including Florida, are taking steps to address this matter. For example, on June 8, 2005, Governor Jeb Bush of Florida signed into law a bill making it illegal for any person to focus the beam of a laser lighting device at a aircraft. However, Federal legislation is needed because aircrafts cross State lines and airports such as Ronald Reagan National Airport are located near State boundaries.

Surprisingly, there is currently no Federal statute on the books making it illegal to shine a laser beam into an aircraft's cockpit unless one attempts to use the PATRIOT Act to claim that the action was a, quote, "terrorist attack or other attack of violence against a mass transportation system," close quote.

Earlier this month, on September 15, 2005, a Federal judge in Newark, New Jersey upheld using the PATRIOT Act to prosecute a New Jersey man accused of shining a hand-held laser at two aircrafts back in December 2004. The defense attorneys for the defendant, Mr. David Banach, argued that the PATRIOT Act was supposed to be used against terrorists. The Federal prosecutors acknowledged that Mr. Banach is not a terrorist, but they said they had no other choice but to use the PATRIOT Act since no other Federal law applied.

Clearly, this legislation before us is needed to ensure the safety of pilots and passengers in all situations. I urge my colleagues to vote yes on the legislation and yes on the clarifying amendment offered by Bobby Scott and myself, and I yield back the balance of my time.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. Mr. Chairman, I am a cosponsor of H.R. 1400 and urge my colleagues to support it, although I have some concern that when the bill is actually applied it may involve some misguided youth fooling around with a laser beam. I realize that the conduct the bill prohibits can be extremely dangerous, not only for the pilot but also for the airline passengers as well.

Perhaps the most appropriate Committee jurisdiction should consider—perhaps the appropriate Committee of jurisdiction should consider requiring strong notices and warnings on laser beam products after this bill is passed, to put people on notice as a further precautionary step, but I think this bill is the appropriate step for this Committee.

Under the bill the Sentencing Commission and the courts will apply the appropriate punishments to violators based on the facts and circumstances of the case, rather than Congress sentencing offenders with mandatory minimums based on the name of the crime without regard for the circumstances.

So, Mr. Chairman, with all the mandatory minimums we're seeing in crime bills before these Committees, I am pleased to have the opportunity to support a bill that does not have any. I yield back the balance of my time.

Chairman SENSENBRENNER. Without objection, all Members' opening statements may be placed in the record at this point.

Are there amendments? The gentleman from New York. The gentleman from Florida.

Mr. KELLER. Mr. Chairman I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1400, offered by Mr. Keller of Florida and Mr. Scott of Virginia. Page 2, line 2, insert "the beam of" before "laser pointer."

Chairman SENSENBRENNER. The gentleman from Florida is recognized for 5 minutes.

[The amendment of Mr. Keller and Mr. Scott follows:]

H.L.C.

AMENDMENT TO H.R. 1400
OFFERED BY MR. KELLER OF FLORIDA
and Mr. Scott (VA)

Page 2, line 2, insert “the beam of” before “laser pointer”.



Mr. KELLER. Thank you, Mr. Chairman. This amendment is a simple clarification indicating that it is illegal to aim the beam of the laser pointer at an aircraft, rather than just the pointer itself. I urge my colleagues to vote yet to this amendment offered by Mr. Scott and myself and yield back the balance of my time.

Chairman SENSENBRENNER. The question is on agreeing to the amendment offered by the gentleman from Florida, Mr. Keller. Those in favor will say aye. Opposed, no.

The ayes appear to have it. The ayes have it. The amendment is agreed to.

Are there further amendments? The gentleman from New York?

Mr. NADLER. Mr. Chairman, we are drafting an amendment. I don't know if it will be ready in time, but I would like to ask the sponsor—

Chairman SENSENBRENNER. Does the gentleman strike the last word?

Mr. NADLER. Yes, strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. NADLER. Mr. Keller, it occurs to me—I mean this is an excellent bill and I certainly support it. It occurs to me that it is a danger not only to point a laser at an aircraft cockpit, it's also a danger to point a laser at a truck cabin if someone's driving an 18-wheeler down the road, or for that matter an automobile. You point a laser at somebody, the driver, you can cause an accident, and I wonder why we don't amend this bill to say that it's a crime not only to point it at an aircraft cabin, but also at a truck or car driver?

Assuming we get the amendment drafted in time in the next couple of minutes—in fact here it is.

Chairman SENSENBRENNER. Will the gentleman from New York yield?

Mr. NADLER. Yes.

Chairman SENSENBRENNER. I think the gentleman has a good idea. I'd like to make sure that the amendment is properly drafted because the section of the statute that the bill proposes to amend relates to aviation sabotage, and if we have something relating not to aircraft there it might be a little difficult to find. I'll be happy to work with the gentleman from New York between now and the time we go to the floor. My guess is that this is a good candidate for the suspension calendar, so we can put something that might not even be germane on this bill to deal with the issue, if the gentleman will forbear?

Mr. KELLER. If the gentleman will yield, I'd like to address your concerns.

Mr. NADLER. Okay, yes, I'll yield.

Mr. KELLER. I agree with the Chairman, and I'd be happy to work with you. In fact, when I look at the language—which I may be able to give you some language—the Florida statute which I mentioned was already signed into law—says any person who knowingly and willfully shines, points or focuses the beam of a laser lighting device on an individual operating a motor vehicle, vessel or aircraft, and so I certainly think that's a reasonable request.

Mr. NADLER. Reclaiming my time, I appreciate the comments of the Chairman and the gentleman, and I will be happy not to offer

this amendment now and to work with you to get this into the bill in the proper form.

Chairman SENSENBRENNER. Gentleman yield back?

Ms. JACKSON LEE. Move to strike the last word.

Chairman SENSENBRENNER. Gentlewoman from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. I thank the Chairman very much, and this may be a question to the proponent of the legislation. I do join in the inquiry as to whether this had been submitted to Subcommittee, but I notice that the term is "laser pointer," and I've asked—I'm concerned about the vagueness of the words without specific definition. May I yield to the proponent, and just ask has he done sufficient research that he thinks this laser pointer is sufficiently narrow, definitively narrow to be able to not, if you will, undermine due process without knowledge of what one might be charged of in this particular legislation.

Mr. KELLER. Thank you for yielding, and, yes, I am aware of the term. The term "laser" means any device that is designed or used to amplify electromagnetic radiation by stimulated emission. If you feel a definition, that that is helpful to people, I don't have a problem of working with you just like we will with Mr. Nadler. That's how it was defined in the Florida statute, but that's the definition of it.

Ms. JACKSON LEE. Well, then I welcome that. I'd like to work with you. I don't want to prolong this. I see that your amendment offered "the beam of" and I'm thinking of flashlights—I don't want to pursue it—and other children's toys, and certainly I don't want to suggest that we don't want to protect pilots and/or truck drivers, but it seems somewhat vague and I think it would be appropriate that we look at this more closely. Are we expecting this to be on the floor next week?

Mr. KELLER. I can't answer that.

Chairman SENSENBRENNER. If the gentlewoman will yield, the answer is no.

Ms. JACKSON LEE. Then, Mr. Chairman, thank you. With that in mind, let me then say, Mr. Keller, I would like to work with you on that. I'm a little concerned about the expansion of the definition, though I think this is a good bill. I yield back.

Chairman SENSENBRENNER. Are there amendments?

[No response.]

Chairman SENSENBRENNER. If there are no amendments, a reporting quorum is present. The question occurs on the motion to report the bill, H.R. 1400 favorably as amended. All in favor will say aye. Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to. without objection the bill will be reported to the House in the form of a single amendment in the nature of a substitute, incorporating the amendments adopted here today.

Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by the House rules in which to submit additional dissenting, supplemental or minority views.

The Chair will announce that the remaining bill on the calendar, the Court Security Bill, will not be considered today because we are

going to be facing votes shortly, and it's the Chair's desire to wrap this up so that we don't have to come back sometime later mid-stream in the Court Security bill.

Also before adjourning the Committee, the Chair would like to remind Members of the Subcommittee on the Constitution to stick around for their markup scheduled to take place immediately following completion of the full Committee business.

If there is no further business to be brought before the Committee, without objection, the Committee stands adjourned.

[Whereupon, at 10:50 a.m., the Committee was adjourned.]

